

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FIFTH THIRD BANK,

Plaintiff,

Civil Action No.
09-CV-13137

vs.

PAUL G. SIEBEN,

PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Defendant.

/

ORDER REGARDING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

This is a breach of contract case. On November 30, 2009, Plaintiff filed a Motion for Summary Judgment seeking a judgment against Defendant in the amount of \$3,242,832.02. *See* docket entry 8. On December 8, 2009, the Court issued a briefing schedule in which it ordered that Defendant's response is due by December 21, 2009, and that Plaintiff's reply is due by January 4, 2010. *See* docket entry 9.

To date, Defendant, who is represented by counsel, has neither filed a response brief nor has sought an extension of time to do so. The December 21, 2009, deadline for a response brief passed more than two weeks ago. A hearing on Plaintiff's Motion for Summary Judgment is currently scheduled for January 20, 2009, at 3:00 p.m.

The deadline for a response brief has expired. The Court is inclined to construe Defendant's failure to respond as a tacit acknowledgment that Plaintiff is entitled to the relief it seeks. Within three days of today's date, Defendant shall show cause why the Court should not summarily enter judgment in favor of Plaintiff. Should Defendant fail to comply with this order, the Court will

cancel the upcoming hearing and enter judgment in favor of Plaintiff and against Defendant in the amount sought.

SO ORDERED.

S/Paul D. Borman

PAUL D. BORMAN

UNITED STATES DISTRICT JUDGE

Dated: January 7, 2010

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on January 7, 2010.

S/Denise Goodine

Case Manager